

## **REMARKS**

Applicant respectfully requests reconsideration of the subject application for the reasons set forth herein.

### **35 U.S.C. § 103(a) Rejections**

Claims 1-2, 4-6, 8-10, 13-14, and 16-18 stand rejected as being unpatentable over Qua, U.S. Patent No. 6,222,909 (“Qua”), in view of Gupte et al, U.S. Patent Application Publication No. 2001/0034225 (“Gupte”). Claim 3 stands rejected as being unpatentable over Qua and Gupte, as applied to Claims 1-2, 4-6, 8-10, 13-14, and 16-18, and further in view of Oakes et al, U.S. Patent No. 6,205,342 (“Oakes”). Claims 7, 11, 12 stand rejected as being unpatentable over Qua and Gupte, as applied to Claims 1-2, 4-6, 8-10, 13-14, and 16-18, and further in view of Gibson et al, U.S. Patent Application Publication No. 2002/0016174 (“Gibson”). Claim 15 stands rejected as being unpatentable over Qua and Gupte, as applied to Claims 1-2, 4-6, 8-10, 13-14, and 16-18, and further in view of Segur, U.S. Patent No. 6,212,550 (“Segur”). Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. §103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Hence, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in

the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP 706.02(j).

#### Qua and Gupte Do Not Teach the Sequence of Steps of the Present Invention

Independent Claim 1 discloses a “method for sending an audio file to an electronic mail (email) recipient over a wireless communications network...comprising: communicatively connecting to a first server...; selecting an option to send the audio file...; communicatively connecting to a second server...; recording the audio file...; and sending the audio file...” Like wise, independent Claim 18 discloses a “method for sending a message to an electronic mail (email) recipient...from a user of a wireless communication device, comprising: dialing a phone number for...connecting to an email server...; selecting an option to send a voice message to the email recipient; recording the voice message...; and sending the voice message...” Neither Qua nor Gupte teaches the sequence of steps disclosed in Applicant’s method.

Applicant respectfully submits that the Examiner has agreed that Qua “does not expressly disclose the aforementioned steps as sequentially consistent with the claimed invention...” *Office Action of December 13, 2005*, page 5. Thus, Qua does not teach each and every element of Claim 1. Thus, Qua fails to teach the method of sending an audio file as disclosed in Applicant’s invention.

Further, Applicant respectfully submits that Gupte, likewise, fails to disclose the sequence of steps disclosed in Claim 1. The present Office Action asserts that Gupte teaches only the first step in the sequence of steps in Claim 1 which discloses “communicatively connecting to a first server...” at paragraph [0014], lines 1-16 and paragraph [0016], lines 1-6. *Office Action of December 13, 2005*, page 6. The present Office Action makes no mention of Gupte teaching any other step of Applicant’s Claim 1 or Claim 18, such as, for example, subsequently recording a voice message on a voice response server. Applicant respectfully submits that Gupte fails to teach the sequence of steps in Claim 1 and Claim 18 and, thus, Gupte fails to teach the method of sending an audio file disclosed in Applicant’s invention.

Furthermore, Applicant respectfully submits that it is not obvious to modify the sequence of steps disclosed in Qua with disclosures in Gupte to arrive at Applicant’s invention, as asserted in the present Office Action. Qua discloses a sequence wherein a user first records and stores the audio note on a processor and, thereafter, a user may forward the recording via an email system. *See Qua*, Figure 1. The system in Qua teaches connecting to an email system via a wireless network *after* recording and storing the audio note. *Id.* If the elements taught in Qua were modified with the disclosures in Gupte regarding *first* connecting to an email system (*see Gupte*, paragraph [0014] and [0016]), an impossibility would exist because the system in Qua does not disclose, subsequently, recording and storing an audio note and making a connection to a second server after *already being connected* to the email system. *See, generally, Qua*. Because the system in Qua would be wholly inoperable, even considering the modification with Gupte, when the steps in Qua are rearranged to match the steps in Applicant’s invention, Applicant respectfully asserts that Applicant’s invention is not obvious.

Lastly, Applicant also respectfully asserts that no motivation exists to modify the sequence of steps disclosed in Qua with disclosures in Gupte to arrive at Applicant's invention. The present Office Action asserts that "one...would have been so motivated to implement [the modification of Qua] so as to provide easy access to *selected emails or other electronic communications* via a wireless device." *Office Action of December 13, 2005*, page 6, citing *Gupte*, paragraph [0006], lines 6-10, emphasis added. Applicant respectfully asserts that this disclosure in Gupte does not describe easy access to *voice attachments or audio files*, which is the spirit of Applicant's invention. Because Gupte fails to disclose the easy access to *voice attachments or audio files*, Applicant respectfully submits that no motivation exists in Gupte to so modify the sequence of steps in Qua to match the sequence of steps disclosed in Applicant's invention. Thus, Applicant respectfully submits that Applicant's invention is not obvious.

Therefore, Applicant submits that the cited references of Qua and Gupte, neither individually nor in combination, teach or suggest the sequence of steps as taught in independent Claims 1 and 18 of Applicant's invention.

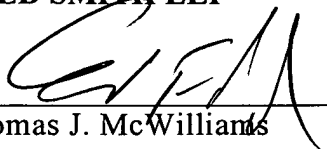
Accordingly, Applicant submits at least the independent Claims 1 and 18 of Applicant's invention are patently distinguishable over the prior art of record. Applicant further submits that each of the dependent claims (Claims 2-17) are similarly distinguishable over the prior art of record, at least by virtue of each Claim's ultimate dependency from the patently distinct base Claim 1.

**Conclusion**

Wherefore, Applicant respectfully believes all outstanding grounds raised by the Examiner have been addressed, and thus respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Respectfully Submitted,

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